

BEFORE THE TENNESSEE REGULATORY AUTHORITY

AT NASHVILLE, TENNESSEE

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IN RE:

UNITED CITIES GAS COMPANY, a Division
of ATMOS ENERGY CORPORATION
INCENTIVE PLAN ACCOUNT (IPA) AUDIT

DOCKET NO.
01-00704

PETITION OF UNITED CITIES GAS
COMPANY TO AMEND THE
PERFORMANCE BASED RATEMAKING
MECHANISM RIDER TO ITS TARIFF

**MOTION OF THE STAFF OF THE ENERGY AND WATER DIVISION
TO SET THE *PETITION OF UNITED CITIES GAS COMPANY TO AMEND THE
PERFORMANCE BASED RATEMAKING MECHANISM RIDER TO ITS TARIFF*
FOR HEARING ON THE MERITS**

The Staff of the Energy and Water Division of the Tennessee Regulatory Authority ("Staff"), pursuant to TRA Rule 1220-1-2-.06, respectfully move that the Hearing Officer enter an order setting a procedural schedule, including a hearing on the merits, exclusively regarding the *Petition by United Cities Gas Company to Amend the Performance Based Ratemaking Mechanism Rider to Its Tariff* ("Petition") filed by United Cities Gas Company, a Division of Atmos Energy Corporation ("Atmos") on August 9, 2002, and holding in abeyance all remaining issues in this docket.

Grounds

1. Because the *Petition* has not yet been approved or denied, the audits of Atmos' incentive plan account for three plan years, March 31, 2002 through March 31, 2004, remain open. Further

delay in completing the compliance audit reports for these plan years is burdensome to the Staff and not in the public interest.

2. The Consumer Advocate and Protection Division of the Office of the Attorney General has stated its position in previous filings in this docket that granting the relief requested in the *Petition* would amount to retroactive ratemaking. To the extent that the Authority is inclined to sustain the Consumer Advocate's position on this issue but otherwise approves the *Petition*, the ratepayers, and Atmos, are prejudiced with each day that passes. Further delay in ruling on this issue is prejudicial to Atmos and its customers.

3. The remaining issues in this docket are not time-sensitive and therefore delaying resolution of the remaining issues in this docket will not prejudice any party to this docket. Delaying resolution of the remaining issues in this docket will serve to accelerate resolution of the *Petition* on the merits by narrowing the number of issues to be litigated in what the record shows to be a contentious docket.

Respectfully submitted,

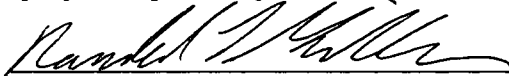
ENERGY AND WATER DIVISION
OF THE TENNESSEE REGULATORY AUTHORITY



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served via hand delivery or U.S. Mail, postage prepaid, upon the persons listed below this 16th day of June, 2004.



Signature

Russell T. Perkins
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